

# PENNSYLVANIA DUI LAW GRADING AND SENTENCING GUIDE

DUI Law Sections Violated	1st in 10 YEARS	2nd in 10 YEARS	3rd in 10 YEARS	4th in 10 YEARS
<p>§3802 (a)(1) Incapable of Safe Driving</p> <ol style="list-style-type: none"> <li>No BAC available</li> <li>No Implied Consent Violation</li> <li>No Injury or Damage (accident)</li> </ol> <p>§3802 (a)(2) BAC .08% to less than .10%</p> <ol style="list-style-type: none"> <li>No injury or Damage (accident)</li> </ol>	<p>Ungraded Misdemeanor</p> <p>Mandatory 6 months Probation</p> <p>Fine \$300</p> <p>AHSS</p> <p>No License Suspension, no interlock</p> <p>Full D&amp;A Assessment if indicated by CRN</p>	<p>Ungraded Misdemeanor</p> <p>Jail 5 days to 6 months</p> <p>Fine \$300 to \$2,500</p> <p>AHSS</p> <p>License Suspension - 12 months</p> <p>Interlock Eligibility after 6 months</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p>	<p>Misdemeanor 2</p> <p>Jail 10 days to 2 years</p> <p>Fine \$500 to \$5,000</p> <p>License Suspension - 12 months</p> <p>Interlock Eligibility after 6 months</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p>	<p>Felony 3</p> <p>Jail 10 days to 7 Years</p> <p>Fine \$500 to \$15,000</p> <p>License Suspension - 18 months</p> <p>Interlock Eligibility after 9 months</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p> <p>DNA Sampling</p>
<p>§3802 (b) BAC .10% to less than .16%</p> <p>§3802 (a)(1)/(a)(2) with damage or injury</p> <p>§3802 (e) Minors .02% or greater</p> <p>§3802 (f) Commercial .04% or greater</p> <p>§3802 (f) School Vehicles .02% or greater</p> <p>§3802 (f) Commercial/School Vehicles incapable of safe driving</p>	<p>Ungraded Misdemeanor</p> <p>Jail 48 hours to 6 months</p> <p>Fine \$500 to \$5,000</p> <p>AHSS</p> <p>License Suspension - 12 months</p> <p>Interlock Eligibility - immediately</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment if indicated by CRN</p>	<p>Ungraded Misdemeanor</p> <p>Jail 30 days to 6 months</p> <p>Fine \$750 to \$5,000</p> <p>AHSS</p> <p>License Suspension - 12 months</p> <p>Interlock Eligibility after 6 months</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p>	<p>Misdemeanor 1</p> <p>Jail 90 days to 5 years</p> <p>Fine \$1,500 to \$10,000</p> <p>AHSS</p> <p>License Suspension - 18 months</p> <p>Interlock Eligibility after 9 months</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p>	<p>Felony 3</p> <p>Jail 1 to 7 years</p> <p>Fine \$1,500 to \$10,000</p> <p>License Suspension - 18 months</p> <p>Interlock Eligibility after 9 months</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p> <p>DNA Sampling</p>
<p>§3802 (c) BAC .16 or higher</p> <p>§3802 (a)(1) with an Implied Consent Violation *</p> <p><i>*Breath test refusal or refusal to submit to a valid search warrant.</i></p> <p>§3802 (d) Controlled Substances</p> <p><i>Unless graded as a Felony 3, all offenses involving a passenger under the age of 18 shall be a Misdemeanor 1.</i></p> <p><i>All offenses shall be graded as a Felony 3 if there is a prior conviction for Homicide by Vehicle While DUI.</i></p>	<p>Ungraded Misdemeanor</p> <p>Jail 72 hours to 6 months</p> <p>Fine \$1,000 to \$5,000</p> <p>AHSS</p> <p>License Suspension - 12 months</p> <p>Interlock Eligibility - immediately</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p>	<p>Misdemeanor 1</p> <p>Jail 90 days to 5 years</p> <p>Fine \$1,500 to \$10,000</p> <p>AHSS</p> <p>License Suspension - 18 months</p> <p>Interlock Eligibility after 9 months</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p>	<p>Felony 3</p> <p>Jail 1 to 7 years</p> <p>Fine \$2,500 to \$15,000</p> <p>License Suspension - 18 months</p> <p>Interlock Eligibility after 9 months</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p> <p>DNA Sampling</p>	<p>Felony 3</p> <p>Jail 1 to 7 years</p> <p>Fine \$2,500 to \$15,000</p> <p>License Suspension - 18 months</p> <p>Interlock Eligibility after 9 months</p> <p>Ignition Interlock - 1 year</p> <p>Full D&amp;A Assessment</p> <p>DNA Sampling</p>
<p><b>ARD - Accelerated Rehabilitative Disposition</b></p> <p><b>A DUI offense is eligible for ARD under the following circumstances:</b></p> <ul style="list-style-type: none"> <li>It is a first offense within ten years.</li> <li>No person, other than the offender, was killed or seriously injured.</li> <li>There was no passenger in the offender's vehicle under the age of 14 at the time of the offense.</li> </ul>	<p><b>Mandatory License Suspension for ARD is as follows:</b></p> <ul style="list-style-type: none"> <li>No suspension if BAC is under .10% and offender is not a minor.</li> <li>A suspension of 30 days if BAC .10% to &lt;.16%.</li> <li>A suspension of 60 days if BAC .16% or greater, BAC unknown, DUI involving drugs or violations of Implied Consent.</li> <li>A suspension of 90 days if the offender is a minor.</li> </ul> <p>• Eligible to petition for the Ignition Interlock Limited License</p>		<p><b>Mandatory Conditions of ARD for a DUI Offense:</b></p> <ul style="list-style-type: none"> <li>AHSS</li> <li>Probation supervision of a minimum of 6 months up to a maximum of 12 months.</li> <li>Full D&amp;A Assessment, if BAC .16 or greater or if CRN Profile report indicates the need for further evaluation for D&amp;A counseling or treatment.</li> <li>Mandatory license suspension as indicated.</li> <li>Restitution to any person who suffered a financial loss.</li> <li>Payment of any other fee, surcharge or cost required by law including fees for AHSS, evaluation and treatment.</li> <li>Any other condition established by the Court.</li> </ul>	
<p>All penalties include up to 150 hours of community service and a Court Reporting Network (CRN) drug and alcohol evaluation.</p>	<p>When a Full Assessment is completed and the Assessment indicates a need for counseling or treatment, the Court is required to order treatment as indicated by the Assessment. When the Court orders treatment or counseling, the Court is required to order the statutory maximum as the top end of the Offender's sentence.</p>		<p>A Full Drug and Alcohol Assessment is required for a DUI offender prior to sentence if any one of the following applies.</p> <ol style="list-style-type: none"> <li>The Offender has a prior DUI offense within 10 years.</li> <li>The Court Reporting Network Evaluation indicates a need for further evaluation for counseling or treatment.</li> <li>The offenders BAC was .16 or greater.</li> </ol>	
<p><b>Act 33 Ignition Interlock Requirements</b></p> <p><b>Title 75 section §1547 (a) (b)</b></p> <p>Refusal to Submit to Chemical Testing for Violation of §3802</p> <p>Ignition Interlock Violations of §3808</p> <p>Refusal to Submit to Chemical Testing for Violations of §1543(b), §1543 (b) (1.1) or Ignition interlock violation of §3808 (a)(2) with alcohol or drugs</p>	<p><b>1st Offense</b></p> <p>License suspension 12 months</p> <p>Interlock Eligibility after 6 months</p> <p>Ignition Interlock 1 year</p> <p>(M) Fine \$300 up to \$1,000 and not more than 90 days jail</p> <p>No license suspension</p> <p>Ignition Interlock extended 1 year from conviction</p> <p>(S) Fine \$1,000 and mandatory 90 days incarceration</p> <p>Ignition Interlock extended 1 year (if no suspension is imposed for §3802)</p>		<p><b>Second or Subsequent Offense:</b></p> <p>License suspension 18 months</p> <p>Interlock Eligibility after 9 months</p> <p>Ignition Interlock 1 year</p> <p>(M) Fine \$300 up to \$1,000 and not more than 90 days jail</p> <p>License suspension 12 months</p> <p>No early interlock eligibility</p> <p>Ignition Interlock 1 year</p> <p>(M3) Fine \$2,500 and mandatory 6 months incarceration</p> <p>License suspension 1 year (if no suspension is imposed for §3802)</p> <p>No early interlock eligibility</p> <p>Ignition Interlock 1 year</p>	